

105 FERC ¶ 61,301
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

San Diego Gas & Electric Company

Docket Nos. ER03-601-000

ORDER APPROVING UNCONTESTED SETTLEMENT

(Issued December 18, 2003)

1. San Diego Gas & Electric Company (“SDG&E”) filed an offer of settlement in the above-captioned proceeding on October 9, 2003. The offer of settlement resolves all issues in this proceeding.
2. The California Public Utilities Commission filed initial comments in support of the offer of settlement on October 24, 2003; SDG&E filed initial comments in support of the offer of settlement on October 28, 2003; Commission Trial Staff and the California Independent System Operator Corporation filed initial comments in support of the offer of settlement on October 29, 2003. No other comments were filed. The presiding judge certified the offer of settlement to the Commission as uncontested.
3. The subject settlement is in the public interest and is hereby approved. Commission approval of this settlement does not constitute approval of, or precedent regarding, any principle or issue involved in this proceeding. The Commission retains the right to investigate the settlement rates, terms, and conditions under the just and reasonable and not unduly discriminatory or preferential standard of Section 206 of the Federal Power Act, 16 U.S.C. § 824e (2000).
4. The designations submitted with the settlement are not in compliance with *Designation of Electric Rate Schedule Sheets*, Order No. 614, FERC Stats. & Regs. ¶ 31,096 (2000). As stated in Footnote 1 to Attachment A of the May 2, 2003 order establishing a hearing, this filing should be designated as Volume No. 11, and reflect the pages that were changed as a result of the settlement as first revised pages. Accordingly, SDG&E is directed to file corrected designations in compliance with Order No. 614 within 30 days from the date of this order.

5. This order terminates Docket No. ER03-601-000. A new subdocket will be assigned upon the receipt of the required compliance filing.

By the Commission. Commissioner Brownell dissenting in part with a separate statement attached.

(S E A L)

Magalie R. Salas,
Secretary.

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San Diego Gas & Electric Company

Docket No. ER03-601-000

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Nora Mead BROWNELL, Commissioner *dissenting in part*:

1. As I explained in my separate statement in Midwest Independent Transmission System Operator, Inc., 105 FERC ¶ 61,073 (2003), I can no longer support making our acceptance of settlement agreements subject to a Commission reservation of authority to make future revisions under the just and reasonable standard, as opposed to the Mobile-Sierra public interest standard-unless, of course, the agreement itself includes language requesting such a reservation. If the Commission has objections to a settlement, we should articulate them when we first review it, instead of approving the settlement with the cloud of uncertainty that we might make subsequent changes under a lower-than-public-interest standard after market participants have come to rely on it. Therefore, I would have accepted this agreement without reserving the option of revisiting it under a just and reasonable standard.

Nora Mead Brownell